

# **EXHIBIT "G"**

CHARLES A. LEGRAND (CL-5320)  
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
30 Rockefeller Plaza, 24<sup>th</sup> Floor  
New York, New York 10112  
Telephone: (212) 332-3800  
Facsimile: (212) 332-3888

-and-

AMAR L. THAKUR, Cal. Bar No. 194025  
DANIEL N. YANNUZZI, Cal. Bar No. 196612  
JON E. MAKI, Cal. Bar No. 199958  
MICHAEL MURPHY, Cal. Bar No. 234695  
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
12275 El Camino Real, Suite 200  
San Diego, California 92130  
Telephone: (858) 720-8900  
Facsimile: (858) 509-3691

Attorneys for Plaintiff  
NEXTEC APPLICATIONS, INC.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NEXTEC APPLICATIONS, INC., a Georgia  
corporation,

Plaintiff,

v.

BROOKWOOD COMPANIES, INC., a  
Delaware corporation,

Defendant.

Case No. 07CV6901 (RJH)

**PLAINTIFF'S OBJECTION TO  
DEFENDANT'S NOTICE OF  
DEPOSITION OF ATLANTIC DIVING  
SUPPLY, INC.**

Plaintiff Nextec Applications, Inc. ("Nextec"), hereby objects to Defendants' Notice of Deposition of Atlantic Diving Supply, Inc. ("ADS") (the "Notice") as stated below:

**OBJECTION TO NOTICE OF DEPOSITION**

1. Plaintiff objects to the Notice on grounds that the deposition is noticed for Thursday, August 14, 2008 in Tysons Corner, Virginia, the same day as Nextec's 30(b)(6) deposition of Brookwood in New York, New York. Throughout this case, Brookwood has insisted that depositions not be "double tracked" and to date Nextec has never gone forward with multiple depositions in different locations on the same day as a result of Brookwood's objections. Nextec's 30(b)(6) deposition of Brookwood has not been taken off calendar or rescheduled and will proceed as scheduled on August 14, 2008. The ADS deposition should be taken off calendar as violative of the parties' agreement not to double track depositions.
2. Plaintiff objects to the Notice on grounds that it does not provide reasonable and sufficient notice to Plaintiff under Federal Rule of Civil Procedure Rule 30. Furthermore, Brookwood's notice and chosen deposition date does not provide sufficient time for any testimony given at the ADS deposition to be used by Nextec in its opposition to Brookwood's motion for partial summary judgment, due August 15, 2008, but would allow Brookwood to use such testimony in its reply to that opposition. The timing and undue delay of the Notice is intentionally calculated to prejudice Nextec and create an unfair advantage to Brookwood.
3. Plaintiff objects to the Notice on the grounds that it has already initiated a subpoena, including document requests and deposition appearance, to ADS. As Brookwood is aware, ADS has objected to Nextec's subpoena and has not yet produced documents pursuant to it. Nextec continues to work with ADS to achieve an acceptable scope of the subpoenaed documents. If such an agreement cannot be reached, Nextec may be forced to file a motion to compel production. Brookwood's deposition notice attempts to supersede Nextec's subpoena despite the fact that such a deposition would be wholly incomplete and fruitless without prior production of documents called for in Nextec's subpoena duces tecum. Nextec's subpoena takes priority over Brookwood's notice for the parties' and witnesses' convenience, the principle of judicial economy and the interests of justice which support that ADS should not be dragged into deposition twice when Brookwood currently has notice that essential


documents have not been produced. Nextec will seek a protective order and/or the costs associated with an additional attorney's time and expense for attending the deposition noticed for the exact same date and time as Nextec's 30(b)(6) deposition and with the additional expense of having to re-depose ADS after receiving the subpoenaed documents.

Dated: San Diego, California  
August 7, 2008

Respectfully submitted,

SHEPPARD MULLIN RICHTER & HAMPTON LLP

By:

  
CHARLES A. LEGRAND (CL-5320)

30 Rockefeller Plaza, Suite 2400  
New York, New York 10112  
Telephone: (212) 332-3800  
Facsimile: (212) 332-3888  
E-mail: [clegrand@sheppardmullin.com](mailto:clegrand@sheppardmullin.com)

-and-

AMAR L. THAKUR (admitted *pro hac vice*)  
DANIEL N. YANNUZZI (admitted *pro hac vice*)  
JON E. MAKI (admitted *pro hac vice*)  
MICHAEL MURPHY (admitted *pro hac vice*)  
12275 El Camino Real, Suite 200  
San Diego, CA 92130  
Telephone: (858) 720-8900  
Facsimile: (858) 509-3691  
E-mail: [athakur@sheppardmullin.com](mailto:athakur@sheppardmullin.com)  
[jmaki@sheppardmullin.com](mailto:jmaki@sheppardmullin.com)  
[mmurphy@sheppardmullin.com](mailto:mmurphy@sheppardmullin.com)

Attorneys for Plaintiff  
NEXTEC APPLICATIONS, INC.